

§ 600.513 Recreational fishing.

(a) Foreign vessels conducting recreational fishing must comply only with this section, and §§ 600.10, 600.504(a)(1), and 600.505 (as applicable). Such vessels may conduct recreational fishing within the EEZ, and within the boundaries of a state. Any fish caught may not be sold, bartered, or traded.

(b) The owners or operator and any other person aboard any foreign vessel conducting recreational fishing must comply with any Federal laws or regulations applicable to the domestic fishery while in the EEZ, and any state laws or regulations applicable while in state waters.

§ 600.514 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and state statutes may apply to their activities.

(b) Fishing vessel operators must exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to enforcement action under the International Convention for the Protection of Submarine Cables, and to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) and other laws that implement that Convention. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than 1 nautical mile (1.85 km) from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than 0.25 nautical mile (0.46 km) from a buoy or buoys intended to mark the position of a cable when being laid, or when out of order, or broken.

§ 600.515 Interpretation of 16 U.S.C. 1857(4).

Section 307(4) of the Magnuson Act prohibits any fishing vessel other than a vessel of the United States (foreign fishing vessel) from operating in the EEZ if all of the fishing gear on board the vessel is not stowed in compliance with that section "unless such vessel is authorized to engage in fishing in the area in which the vessel is operating."

If such a vessel has a permit authorization that is limited to fishing activities other than catching, taking or harvesting (such as support, scouting or processing activities), it must have all of its fishing gear stowed at all times while it is in the EEZ. If such a vessel has a permit authorization to engage in catching, taking or harvesting activities, but such authorization is limited to a specific area within the EEZ, and/or to a specific period of time, the vessel must have all of its fishing gear stowed while it is in the EEZ, except when it is in the specific area authorized, and/or during the specific period of time authorized.

§ 600.516 Total allowable level of foreign fishing (TALFF).

(a) The TALFF, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, is that portion of the OY of such fishery that will not be caught by vessels of the United States.

(b) Each specification of OY and each assessment of the anticipated U.S. harvest will be reviewed during each fishing season. Adjustments to TALFF's will be made based on updated information relating to status of stocks, estimated and actual performance of domestic and foreign fleets, and other relevant factors.

(c) Specifications of OY and the initial estimates of U.S. harvests and TALFF's at the beginning of the relevant fishing year will be published in the FEDERAL REGISTER. Adjustments to those numbers will be published in the FEDERAL REGISTER upon occasion or as directed by regulations implementing FMPs. For current apportionments, contact the appropriate Regional Director or the Director.

§ 600.517 Allocations.

The Secretary of State, in cooperation with the Secretary, determines the allocation among foreign nations of fish species and species groups. The Secretary of State officially notifies each foreign nation of its allocation. The burden of ascertaining and accurately transmitting current allocations and status of harvest of an applicable allocation to fishing vessels is upon the

Fishery Conservation and Management

§ 600.518

foreign nation and the owner or operator of the FFV.

§ 600.518 Fee schedule for foreign fishing.

(a) *Permit application fees.* Each vessel permit application submitted under § 600.501 must be accompanied by a fee of \$354 per vessel, plus the surcharge, if required under paragraph (e) of this section, rounded to the nearest dollar. At the time the application is submitted to the DOS, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA," must be sent to the Director. The permit fee payment must be accompanied by a list of the vessels for which the payment is made.

(b) *Poundage fees—(1) Rates.* If a Nation chooses to accept an allocation, poundage fees must be paid at the rate specified in the following table, plus the surcharge required by paragraph (c) of this section.

TABLE—SPECIES AND POUNDAGE FEES
[Dollars per metric ton, unless otherwise noted]

| Species fees | Poundage fees |
|-------------------------------------|---------------|
| Northwest Atlantic Ocean fisheries: | |
| 1. Butterfish | 274.61 |
| 2. Hake, red | 163.97 |
| 3. Hake, silver | 174.63 |
| 4. Herring | 61.76 |
| 5. Mackerel, Atlantic | 58.33 |
| 6. Other groundfish | 119.09 |
| 7. Squid, <i>Illex</i> | 103.98 |
| 8. Squid, <i>Loligo</i> | 245.73 |

(2) *Method of payment of poundage fees, surcharges and observer fees.* (i) If a Nation chooses to accept an allocation, a revolving letter of credit (L/C) must be established and maintained to cover the poundage fees for at least 25 percent of the previous year's total allocations at the rate in paragraph (b)(1) of this section, or as determined by the Assistant Administrator, plus the surcharges and observer fees required by paragraphs (c) and (d) of this section. The L/C must—

- (A) Be irrevocable.
- (B) Be with a bank subscribing to ICC Pub. 290.
- (C) Designate "Department of Commerce, NOAA" as beneficiary;
- (D) Allow partial withdrawals.
- (E) Be confirmed by a U.S. bank.

(ii) The customer must pay all commissions, transmission, and service charges. No fishing will be allowed until the L/C is established, and authorized written notice of its issuance is provided to the Assistant Administrator.

(3) *Assessment of poundage fees.* Poundage fees will be assessed quarterly for the actual catch during January through March, April through June, July through September, and October through December. The appropriate Regional Director will reconcile catch figures with each country following the procedures of § 600.511(d). When the catch figures are agreed upon, NOAA will present a bill for collection as the documentary demand for payment to the confirming bank. If, after 45 days from the end of the quarter, catches have not been reconciled, the estimate of the Regional Director will stand and a bill will be issued for that amount. If necessary, the catch figures may be refined by the Regional Director during the next 60 days, and any modifications will be reflected in the next quarter's bill.

(c) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge until further notice.

(d) *Observer fees.* The Assistant Administrator will notify the owners or operators of FFV's of the estimated annual costs of placing observers aboard their vessels. The owners or operators of any such vessel must provide for repayment of those costs by including one-fourth of the estimated annual observer fee as determined by the Assistant Administrator in a L/C as prescribed in § 600.518(b)(2). During the fiscal year, payment will be withdrawn